

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL DOCKET NO.: 5:05CV282-V**


ALLIED VAN LINES, INC., and)	
BERGER TRANSFER & STORAGE, INC.,)	
)	
Plaintiffs,)	
v.)	ORDER
)	
SUSAN WALTERS,)	
)	
Defendant.)	
_____)	

THIS MATTER is before the Court on its own motion following the filing of Plaintiffs' Motion to Dismiss Counterclaim and Motion for Judgment on the Pleadings, both filed April 3, 2006. The Defendant has not responded.

The Plaintiffs move to dismiss the counterclaim and move for judgment on the pleadings based on 49 C.F.R. § 370.3, 49 U.S.C. § 14706(e), and Section 6 of the Bill of Lading. These provisions require that a claim for damage to cargo be made in accordance with the requirements of these provisions, including that the claim be made in writing. The Plaintiffs assert that no claim was filed against them in writing, and that the Defendant has failed to assert such writing in its pleadings. As facts in the pleadings on this issue could be determined in favor of the Plaintiffs, the Court finds it necessary that the Defendant respond to the Plaintiffs' Motions.

IT IS, THEREFORE, ORDERED that the Defendant shall file a Response to Plaintiffs' Motion to Dismiss Counterclaim and Motion for Judgment on the Pleadings within seven (7) days of the date of this Order. The Plaintiffs shall then have seven (7) days from the date that Defendant files her Response to file their Reply.

Signed: May 15, 2006



Richard L. Voorhees
Chief United States District Judge

